



Petition to Reconsider Priority

November 18, 2004

United States Department of Commerce
United States Patent and Trademark Office
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

To Whom It May Concern:

The priority claim for application 10/002,690 based on provisional application 60/23,336 is denied because the USPTO received 10/002,690 12 months and 7 days after the filing of 60/23,336; making the arrival of 10/002,690 7 days past the due date. However, the mailing of 10/002,690 on or about November 18, 2001, was made at a time when all USPS correspondence to Washington DC based government offices was delayed significantly, because of the post 9/11 anthrax scare. The applicant's recollection is that this delivery took three weeks. The applicant assumed that the USPTO would have given special consideration to correspondence mailed around that time. There was no prior indication to the applicant that there was a problem with this. The first notification that priority was denied, came 2 years and 9 months after the filing of 10/002,690, making rapid action on the part of the applicant in regards to documenting and correcting the problem very difficult. The applicant is requesting that this be re-considered.

Following are 3 excerpts from Washington Post articles concerning the delay in the delivering of mail in the Washington D.C. area, in the October-November 2001 time period. The applicant contends that the application for 10/002,690 was sent to the USPTO, by first class mail, on or about November 18, 2001. It was due by November 28, 2001. However, it was not received until 12/05/2001, which is in keeping with the types of delays reported below. The applicant is asking for consideration.

Excerpt 1:

<http://www.ph.ucla.edu/epi/bioter/anthraxagencymaildelays.html>

22 Aug 2003

Source: Washington Post, August 8, 2002.

Long After Anthrax Scare, Agency Mail Delays Persist

By Helen Rumbelow, Washington Post Staff Writer

It has been nearly a year since terrorists contaminated the postal system with anthrax spores, but many federal departments are still reporting problems with their mail.

"I was getting invitations for holiday parties as recently as June of this year," said Rob Nichols, deputy assistant secretary in the Office of Public Affairs at the Treasury Department. "If someone needs to get a document to us urgently, we will make them aware of the difficulty, and that first-class mail is not the way to do it."

During last fall's anthrax attacks, spores were found in the mailrooms for the Supreme Court and the main building of the Justice Department, and a mailroom worker for the State Department was taken to the hospital with the disease. Faxes and e-mails helped employees work around the disruption, but some places, like the Supreme Court, where no electronic filing is allowed, had serious difficulties.

Since then, the Postal Service is more or less back to normal, but that good news has yet to reach several hundred thousand government workers. At 13 of the major federal departments, all but three report an average delivery time of seven to 10 days after the postmark. The State Department's mail is regularly delayed by about three weeks.

Much of the delay is attributable to irradiation, which the Postal Service does in New Jersey for all mail bearing a Zip code of a federal building in Washington. That adds an extra four days to delivery time.

Excerpt 2:

<http://www.washingtonpost.com/wp-srv/articles/metro/zz-mail111701.html>

By Justin Blum

Washington Post Staff Writer

Saturday, November 17, 2001; Page A10

Tractor-trailers filled with mail are back in Washington after being decontaminated at out-of-state plants, but the Office of Homeland Security has ordered the delivery delayed

until recipients are warned that the process used to kill any anthrax bacteria could adversely affect some contents.

Postal officials said they cannot quantify how much mail has returned from plants in New Jersey and Ohio, where it was sent for decontamination. The affected mail includes items that were inside the Brentwood Road postal facility Oct. 21, when it was closed because it had processed a letter containing anthrax bacteria that was sent to Senate Majority Leader Thomas A. Daschle (D-S.D.). Mail sent after Oct. 21 to unspecified federal government agencies in the Washington area also has been sent for decontamination.

Mail delivery to affected federal agencies could begin as soon as Monday, and officials also said they hope to begin delivering the residential mail next week. Most other mail service in the city is unaffected, postal officials said.

Officials at several government agencies, although noting that they had not experienced significant disruptions in operations, said the halt in first-class mail has forced them to rely on e-mail, faxes and FedEx.

Excerpt 3:

THE FOLLOWING QUESTIONS AND ANSWERS CONCERNING ANTHRAX ARE FROM THE WASHINGTON POST. THE DATE OF THE ARTICLE FOLLOWS THE QUESTION.

Q. Many people are not receiving mail on time as a result of anthrax scares, which means that they may be late paying credit card bills. Will they be charged late fees? (10/30/01)

A. Credit card companies, such as Visa, said that the decision will be made by the individual banks that issue cards. Bank of America is typical among banks saying that it will not charge fees for payments that are late because of a delay in mail service. People who have concerns can call the customer service numbers on their bills and arrange to make payments electronically, over the phone or another manner.

Q. Am I going to have to pay late charges on my bills because the post office has not delivered the mail on time? (10/30/01)

A. In many cases, no. Potomac Electric Power Co., said it would temporarily suspend service disconnects and waive late penalties for customers affected by late mail deliveries; customers who believe they were unfairly charged a late fee should contact the utility. Washington Gas Light Co. instituted similar policies and noted that bills may be paid through automatic bank drafts by telephone; at Sun Trust and First Virginia Bank

location; and at the company's headquarters downtown and its offices in Anacostia and Springfield. The D.C. Water and Sewer Authority said it would waive late fees on a case-by-case basis for people whose mail is delayed and urged people to pay their bills over the Internet when possible.

The applicant wishes to thank the USPTO for any consideration towards the delay in receiving 10/002,690 in regards to the claim of priority of 60/23,336.

Sincerely,

A handwritten signature in cursive script that reads "Philip Cavanaugh". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

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